

THE FAYETTE COUNTY PLANNING COMMISSION held a **Public Meeting/Workshop** on November 17, 2011, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Board of Commissioners Conference Room, Suite 100, Fayetteville, Georgia.

MEMBERS PRESENT: Tim Thoms, Chairman
Al Gilbert, Vice-Chairman
Bill Beckwith
Jim Graw
Douglas Powell

MEMBERS ABSENT: None

STAFF PRESENT: Pete Frisina, Director of Community Development
Tom Williams, Asst. Director of Planning and Zoning
Dennis Dutton, Zoning Administrator
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

GUEST: Attorney Jennifer Blackburn representing Verizon Wireless

Welcome and Call to Order:

Chairman Thoms called the Public Meeting/Workshop to order and introduced the Board Members and Staff.

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1. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding Sec. 5-47. Standards for Telecommunications Antennas and Towers.

Pete Frisina advised the changes as discussed at the previous Public Meeting/Workshop had been made to the proposed amendments. He presented the following:

ARTICLE III. DEFINITIONS

Tower, Planned. Any tower that is in the public hearing procedure, site application **review** process, or has been approved, but not yet constructed (see Article V.)

ARTICLE V. GENERAL PROVISIONS

Sec. 5-47. Standards for Telecommunications Antennas and Towers. (Amended 05/26/11)

A. *Purpose and Intent.* The purpose of this ordinance is to establish minimum development standards for the regulation of commercial telecommunications transmission towers,

including, but not limited to:

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cellular and Personal Communications Systems (PCS) towers, broadcasting towers, two-way radio towers, fixed-point microwave dishes, commercial satellites and receiving dishes, and related equipment cabinets and/or buildings. The intent of this ordinance is: (1) to implement the provisions of the Telecommunications Act of 1996, on a local level; (2) to control placement of towers and antennas in a way that minimizes the adverse visual impact to nearby properties by locating towers and antennas in non-residential areas or in areas where the adverse impact on the community is minimal; and (3) to advocate the shared use of new and existing tower sites through co-location, thereby discouraging the proliferation of towers throughout Fayette County.

B. *Authority.* Only the Board of Commissioners has the authority to reduce or waive the requirements under this section through the public hearing procedure.

C. *Applicability.*

1. *District Height Limitations.* Height limits specified for each zoning district shall not apply to towers and antennas. The requirements set forth herein shall govern the height of towers and antennas.
2. *Governmentally Owned Property.* These requirements shall not apply to any governmentally owned property, including: properties owned by the Board of Commissioners, Board of Education, or a municipality, as well as, the State or Federal government, that are used for the location of any tower facility.
3. *Amateur Radio Antennas.* This ordinance shall not govern any amateur radio tower, or the installation of any antenna, that is less than 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator.
4. *Pre-Existing Towers and Antennas.*
 - a. Any tower or antenna which existed prior to December 10, 1998, (**may need a new date?**) that does not comply with the requirements herein shall be deemed legally nonconforming. Any enlargement of a pre-existing tower or tower facility, shall meet the requirements herein. Co-location of an antenna which does not increase the height of the tower or placement of additional equipment cabinets or buildings within the existing tower facility shall be allowed under the provisions of Site Plan Requirements.
 - b. Replacement of a pre-existing legally nonconforming tower structure is permitted provided that all of the following apply:
 - i. The replacement tower is constructed within 25 feet of the existing tower and is not greater in height than the existing tower.
 - ii. The tower being replaced is removed from site within 90 calendar days from the issuance of the Certificate of Occupancy for the replacement tower;

- iii. Additional co-location opportunities on the new tower are made available with the minimum users required based on tower height; and
- iv. A site plan indicating the location of the replacement tower shall be required.

D. *General Requirements.*

1. Towers and tower facilities shall be on a lot which meets the minimum ~~lot size~~ **requirements** for the zoning district in which it is located. Towers and tower facilities may be located on a lot containing another use. Towers and tower facilities may occupy a leased area being a portion of the lot.
2. Internal setbacks for towers, tower facilities, and anchors shall be measured to the boundaries of the lot, not the boundaries of the leased area. Setbacks for towers shall be measured from the base of the tower.
 - a. All towers shall be set back from all adjoining properties zoned residential or A-R a distance equal to the height of the tower plus 10 feet.
 - b. All towers shall be set back from all adjoining properties zoned non-residential a distance of 100 feet.
 - c. All towers shall be set back from the street right-of-way (existing or required) a distance equal to the height of the tower. Street right-of-way is based on the classification of the street (see County Code, Development Regulations.)
 - d. All towers, excluding alternative tower structures, shall be set back from any off-site residence a distance equal to three (3) times the tower height or a minimum of 500 feet, whichever is greater.
 - e. Any tower facility and anchors for guyed towers shall comply with the minimum required setbacks and/or buffers of the applicable zoning district.
 - f. All towers shall be set back from all adjacent municipalities and counties a distance of one-half (0.5) statute miles.**

Bill Beckwith suggested inserting “minimum” prior to “distance.”

Chairman Thoms stated the proposed amendment was not equitable because if a tower is proposed within 0.50 statute miles from an adjacent municipality or county it creates an additional hurdle that would not be required for others and the proposed tower would be relocated to avoid a public hearing.

Al Gilbert concurred, but pointed out if you listen to the BOC recording, one (1) member of the BOC insisted this be required.

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Jim Graw asked if the other adjacent municipalities and counties were going to reciprocate this requirement.

Pete Frisina said he thinks the Commissioner is looking for a channel so the City would have an official avenue to give the BOC their input.

The PC could not reach a consensus on this proposed amendment; however, two (2) of the PC members opposed the proposed amendment.

3. Towers located on the same lot as a private school or day care center shall be set back a distance equal to the height of the tower from all facilities, excluding parking areas. This provision shall not apply to an alternative tower structure which is allowed in conjunction with a Private School Conditional Use.
4. All towers, excluding alternative tower structures, shall be structurally designed to accommodate the following minimum numbers of carriers based on height of the tower:
 - a. up to 70 feet : one (1) carrier;
 - b. greater than 70 up to 120 feet : two (2) carriers;
 - c. greater than 120 feet up to 150 feet : three (3) carriers;
 - d. greater than 150 feet up to 180 feet : four (4) carriers;
 - e. greater than 180 feet up to 250 feet : five (5) carriers; and
 - f. greater than 250 feet: six (6) carriers.
5. All tower facilities, excluding tower facilities associated with alternative tower structures, shall be enclosed by a steel chain link fence not less than eight (8) feet in height, with slat inserts for screening. Access to the telecommunication tower shall be through a locking gate. In addition, a minimum of three (3) strands of barbed wire shall be used along the top of the fence to prevent unauthorized access to the tower.
6. A landscaped strip 10 feet in width surrounding the perimeter of the tower facility shall be required. Landscaping shall be staggered double rows of evergreen trees a minimum of six (6) feet in height when planted and spaced every 10 feet on center. Landscaping shall be installed on the outside of the required security fence. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Zoning Administrator may determine that natural growth around the property perimeter may be sufficient in lieu of the required landscaping. If existing vegetation is to remain and requested to count toward the landscaping requirements, all such information, including location, size, and type of vegetation shall be indicated on the site/landscape plan. These requirements shall not apply to a tower facility associated with an alternative tower structure.

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7. Maximum height for all towers and antennas is 500 feet. Tower height shall be measured from the natural grade of the ground at the location of the tower to the highest point of the tower, including any antenna. If minimal grading (elevation of one [1] to two [2]) feet above natural grade) is required to level the ground for the tower base, tower height shall be measured from the finished grade approved by the County Engineer.
8. No signage shall be placed on a tower structure or antenna.
9. *Inventory of Existing or Planned Tower Sites.* **(Commentary: Hire an outside radio frequency engineer to review like Peachtree City (\$4,500) and Gwinnett County (\$6,000) which entails a fee to cover the cost of the professional. If the radio frequency engineer determines that an existing or planned tower can accommodate a tower/antenna, the site application would be denied? Should this inventory and review also be required for the public hearings to waive requirements as well as a tower/antenna which can be accommodated on an existing or planned tower should be taken into consideration at the public hearing?)** No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the County that no existing tower or any planned towers can accommodate the applicant=s proposed antenna. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. All of the following shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna:
 - a. Each applicant for a new tower and antenna shall contact the owners of all existing and planned tower sites, including those located within the zoning jurisdictions of municipalities and/or other counties, that are within the search area of the applicant=s proposed tower or antenna location, ~~and provide the Planning and Zoning Department with an inventory of said tower sites at the time of application submittal.~~
The inventory shall include the following information:
 - i. All tower owners and the number of carriers for each tower site;
 - ii. The site location, total height, and design type of each tower;
 - iii. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant=s engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;
 - iv. Other limiting factors that render existing towers and structures unsuitable; and

- v. Letters of rejection for requests to co-locate on all existing and planned towers within the service area of the proposed tower.

Pete Frisina stated he had suggested not requiring the inventory unless there was a situation where a proposed tower could not meet the separation distance between towers which would require public hearings. He said Staff does not have the expertise and no one on Staff is a Radio Frequency Engineer (RFE.) He advised Peachtree City and Gwinnett County hire a professional from this field to review the reports because this report should be justifying that within the search area, there are no existing or planned towers which can accommodate their use. He added while Peachtree City has not utilized this requirement yet, the same professional is contracted with both jurisdictions. He remarked the professional is also contracted with Bulloch County and even attends their public hearings. He confirmed he had spoken with their professional and his fee is based on how much he has to do. He noted the professional lives in Florida and he actually visits Gwinnett County and reviews the site.

Attorney Jennifer Blackburn reported a professional is utilized, in most cases, on an as-needed basis and is not for every routine application. She said this additional expense would deter the construction of towers because it would increase the expense significantly. She added Verizon Wireless is a private company and their RFE would determine where the need is because we are not going to spend millions of dollars to construct a tower where it is not needed. She stressed the County was going to get a lot of push back from the industry over this because it is over regulating towers vs. other private companies plus a huge fee to cover the cost of the professional.

Al Gilbert concurred with Pete Frisina and Attorney Blackburn and added the original intent in reviewing the tower ordinance was not to deter the construction of towers.

Jim Graw presented three (3) options: 1) keep inventory requirement and require a professional to review the application; 2) delete the inventory requirement in its entirety; and 3) amend the requirements of the inventory which could be reviewed by Staff.

Doug Powell and Jim Graw expressed concern about a proliferation of towers and asked what would stop the tower industry from constructing a tower every 1.50 statute miles.

Attorney Jennifer Blackburn replied the cost incurred would stop the tower industry.

Pete Frisina explained a new tower may be required in less than 1.50 statute miles due to an inadequate coverage area. He added the digital system carries less than the old analog system.

Attorney Jennifer Blackburn explained topography, dense tree coverage, or dense residential areas could require a new tower in less than 1.50 statute miles but it would probably be a shorter tower. She added all antennas are being modified on existing towers to allow for the 4G technology and to provide more capacity. She suggested seeing if the E911 Design Consultant Engineer could review the inventory information.

Bill Beckwith stated he thought this was a good idea.

Pete Frisina reiterated if a proposed tower complies with the separation distance between towers, the inventory should not be required; however, the inventory should be required and approved by an RFE, contracted with the County, in situations where the separation distance between towers cannot be met and public hearings are required.

Doug Powell asked if the County should hire a profession to review the Telecommunication Tower Ordinance.

Bill Beckwith remarked if the proposed tower complies with the separation distance between towers why require the inventory.

Pete Frisina explained Staff should review the inventory to determine if the proposed tower is necessary which they can't because they are not a certified RFE. He confirmed since the ordinance had been amended in 2010, there have been eight (8) new tower applications.

Chairman Thoms asked how long the administrative approval was valid before the tower is constructed.

Pete Frisina replied one (1) year.

Chairman Thoms confirmed after one (1) year from administrative approval and the tower has not been constructed, the tower company loses their right to the site.

Pete Frisina reported he would present to the BOC at their December Workshop that the inventory would be required only when there is a problem with the separation distance between towers and a RFE could review the inventory to justify that this is the true case. He confirmed he would not require the inventory if the separation distance between towers could be met.

- b. The Planning and Zoning Department may share such information with other applicants applying for approval under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority,

provided; however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- c. If it is determined that the applicant cannot feasibly locate an antenna on an existing tower or planned tower, the applicant shall demonstrate that the proposed new tower is designed to accommodate the required number of carriers.
- d. **Independent expert review. In addition to any permit fees, the applicant shall be required to pay to the county an independent expert review fee per application at the time the application is filed. If the actual cost to the county for independent expert review of the application is greater than this initial fee, the applicant shall be billed for the difference and payment shall be made prior to the hearing before the Board of Commissioners.**

Pete Frisina advised he would make minor revisions to d.

- 10. *Aesthetics and Lighting Requirements.* The following compatibility standards shall govern the aesthetics and lighting of any tower facility, including the installation of antennas on towers.
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and equipment cabinets shall be architecturally compatible with, the color and texture of the supporting structure. Roof mounted equipment cabinets shall be screened so as to make the equipment visually unobtrusive.
 - c. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- ~~11. *Federal Requirements.* All towers shall meet current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antenna, including modulation studies on frequency usage, to avoid interference with existing systems in operation.~~
- ~~12. *Building Codes and Safety Standard Requirements.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for~~

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~~towers that are published by the Electronic Industries Association, as amended. If,~~

~~upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards or that such tower constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 60 days to bring such tower into compliance.~~

13. *Removal of Abandoned Antennas and Towers.* Prior to the abandonment of any tower or antenna, a copy of the notice of Intent to Abandon required by the FCC shall also be submitted to the Fayette County Planning and Zoning Department. Any antenna or tower, including pre-existing towers and antennas, that is not in use for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment.

If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

14. *Performance Bond Required.* Prior to the issuance of a Certificate of Occupancy for a new tower structure, every applicant shall be required to deposit a performance bond with Fayette County. The amount of the bond shall be equal to 10 percent of the total construction cost or a minimum of \$5,000, whichever is greater. Such bond shall be required upon compliance with all aspects of this section and shall be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any Certificate of Zoning Compliance issued by the Planning and Zoning Department. The required performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The approved format of the bond is available in the Planning and Zoning Department.

E. *Supplemental Requirements.* In addition to the General Requirements above, the following Supplemental Requirements shall apply as specified below.

1. *Highway Corridor.* Locating towers along the following highway corridors is permitted as an overlay zone provided all the following requirements are met:
 - a. The State and County Highways included within the Highway Corridor are S.R. 54, S.R. 85, S.R. 92, S.R. 74, S.R. 314, S.R. 279, S.R. 138, and 85 Connector.
 - b. The Highway Corridor tower overlay zone permits towers in any zoning district when located within 1,000 feet of the right-of-way on either side of the aforementioned roads in unincorporated areas of Fayette County.
 - c. Towers in excess of 250 feet in height in the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.

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- d. All new towers, excluding alternative tower structures, located within the Highway Corridor that are 70 feet or greater in height shall not be located

within one (1) statute mile from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing governmentally-owned towers where co-location is not permitted or from alternative tower structures.

2. *Outside of the Highway Corridor.*

- a. Outside of the Highway Corridor, a tower may be located only in the following zoning districts:
Manufacturing and Heavy Industrial District (M-2);
Light Industrial District (M-1);
Highway Commercial District (C-H);
Community Commercial District (C-C);
Agricultural Residential (A-R); and
R-70 Single-Family Residential District.
- b. Towers in excess of 180 feet in height outside of the Highway Corridor shall require public hearings before the Planning Commission and Board of Commissioners.
- c. All new towers, excluding alternative tower structures, located outside of the Highway Corridor that are 70 feet or greater in height shall not be located within one and one-half (1.50) statute miles from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing government-owned towers where co-location is not permitted or from alternative tower structures.

3. *Alternative Tower Structures.*

- a. The purpose of an alternative tower structure is to diminish, camouflage, or conceal the appearance of towers and antennas to reduce the visual impact on surrounding properties and streets. Depending on the nature of the site, the proposed alternative tower structure shall be appropriate and in character with its surroundings. For example, the use of a monopine is more fitting on a site with stands of mature trees; whereas, the use of a flag pole or light pole alternative tower structure is more suitable for the developed portion of a site.
- b. Alternative tower structures shall comply with the General Requirements herein with the exception of the setback requirements from off-site residences, security fencing requirements, landscape requirements, and tower separation requirements of both the Highway Corridor and outside of the Highway

Corridor. Alternative tower structures shall be allowed in the Highway Corridor, outside of the Highway Corridor in the zoning districts listed herein, and in conjunction with the following existing Conditional Uses:

- i. Church or Other Place of Worship;
 - ii. Developed Residential Recreational/Amenity Areas;
 - iii. Private School; and
 - iv. Telephone, Electric, or Gas Sub-Station or Other Public Utility Facilities.
- c. Alternative tower structures, in conjunction with the above listed Conditional Uses, shall meet the setbacks established in the General Requirements or the Conditional Use setbacks, whichever is greater.
- d. An alternative tower in excess of 120 feet in height shall require public hearings before the Planning Commission and Board of Commissioners.
- e. A maximum of one (1) alternative tower structure shall be allowed per lot.
- f. The alternative tower structure shall match the visual simulation depiction and engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site.
- g. *Design Review and Approval Process:* Alternative tower structures shall go through a Design Review and Approval Process before the Planning Commission.
 The purpose of this Design Review and Approval Process is to determine that the alternative tower structure type is appropriate for the site and surrounding area and set requirements for the alternative tower structure type, placement on the site, equipment structures, fencing and landscaping.
 The Design Review and Approval Process application shall include the following:
 - i. An analysis of the nature and character of the site and how the alternative tower structure is appropriate in context to the site and the view from surrounding properties and streets;
 - ii. A visual simulation consisting of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets; and
 - iii. Engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site which shall indicate all applicable requirements herein.

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- h. *Monopine Towers.*
 - i. Monopine towers shall maintain the natural conical appearance of a loblolly pine tree. Antennas shall be placed a minimum of five (5) feet below the top of the tower, as measured from the highest point of

- the antenna to maintain said appearance.
 - ii. Foliage shall be green in color and the tower shall be brown in color. The antennas shall be green to blend with the foliage and the foliage shall extend a minimum of one (1) foot beyond the antennas. The foliage shall be UV resistant to reduce degradation and fading and constructed to withstand winds of 110 MPH, certification of such shall be supplied with the application. Foliage shall be placed on the tower down to the height of the foliage of surrounding trees. The structure shall have sufficient limbs at the time of initial installation so that there is no gap between the existing canopy and the lower most limbs of the monopine.
 - iii. The installation of the foliage on the monopine shall be installed prior to final inspections. Foliage on the monopine shall be maintained and/or replaced to the specifications established by the engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site to retain the screening of the antennas. Upon notice from the County that the foliage is in need of maintenance and/or replacement, the tower owner shall have 90 days to make such repairs.
 - i. Flag pole and light pole alternative tower structures shall utilize internal antennas and slick stick design. Flag poles utilized as an alternative tower structure shall be exempt from Article V. *General Provisions, Structures Permitted above the Height Limit*.
- F. *Public Hearings Required to Reduce or Waive Requirements.*
- 1. Public hearings before the Planning Commission and Board of Commissioners are necessary to reduce or waive requirements for a proposed tower, antenna, or equipment cabinet or building that cannot comply with the General Requirements, and/or Supplemental Requirements. The procedure for said public hearings shall follow the procedure for rezoning (see Article XI.) Applicants shall apply for public hearings through the Planning and Zoning Department. The application with deadline submittal and public hearing dates is available in the Planning and Zoning Department. The application shall include the following:

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- a. A scaled Concept Plan, drawn on the signed/sealed survey, graphically indicating the lot and leased area, total tower height including antennas, type and design of the tower structure, the boundary of the tower facility, all applicable setbacks (both on and off-site), ingress/egress, landscaping areas, and zoning of the subject property and adjacent property;

- b. An Inventory of Existing or Planned Tower Sites per the standards listed under Supplemental Requirements;
 - c. A balloon test shall be conducted prior to the public hearings. The balloon shall be flown for a minimum of four (4) daylight hours from the location of the proposed tower, at the requested height. The application shall include the date and time of the balloon test and an alternative date, in case of inclement weather. The initial balloon test shall be held on a Saturday and the alternative date may be held on any day of the week. A sign announcing the dates of the balloon test shall be posted on the property by the County a minimum of five (5) calendar days prior to the initial balloon test; and
 - d. The applicant shall submit a visual simulation, based on the balloon test, a minimum of seven (7) calendar days prior to the Planning Commission public hearing. Failure to meet this deadline will postpone the tower application to the next scheduled cycle of public hearings. The visual simulation shall consist of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four (4) distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets. An Affidavit certifying that the correct location and height of the tower were utilized in the balloon test shall be submitted with the visual simulation photographs.
2. *Factors Considered in Public Hearing Applications.* The following factors shall be considered when evaluating a tower application:
- a. Height of the proposed tower;
 - b. Distance of the tower to residential structures and residential zoning district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Topography of the site and its effect on the efficiency of the tower in terms of coverage;
 - e. Surrounding tree coverage and foliage and its effect on the efficiency of the tower in terms of coverage, as well as, its effect on the visual impact of the tower on surrounding properties and streets;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

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- g. Proposed ingress and egress; and
- h. The degree of the tower's compliance with the one (1) statute mile separation (inside the Highway Corridor) or one and one-half (1.5) statute mile separation (outside the Highway Corridor.)

In granting its approval to waive or reduce requirements, the County, through the

Board of Commissioners or its designee, may impose conditions that are necessary to minimize the adverse effect of a proposed tower or antenna on adjoining property. A site application shall be submitted within 60 days of the date of approval by the Board of Commissioners or the proposed tower will no longer be deemed a planned tower.

- G. *Site Application Requirements.* All applicants for new tower construction shall include the following:
- a. completed application forms signed and notarized;
 - b. proof of ownership of the parent tract (latest recorded Warranty Deed);
 - c. site plan prepared by an Engineer, Architect, or Landscape Architect registered by the State of Georgia;
 - d. landscape plans (see General Requirements);
 - e. provide number of carriers based on maximum height of tower;
 - f. provide inventory of Existing or Planned Tower Sites (see General Requirements);

Pete Frisina advised that “f.” would be deleted based on the previous discussion.

- ~~g. a report including all tower specifications and a description of the tower with technical reasons for its design;~~
- ~~h. documentation establishing the structural integrity for the tower=s proposed uses;~~
- ~~i. the general capacity of the tower and information necessary to assure that ANSI standards are met;~~
- ~~j. a statement of intent on whether excess space will be leased; the names of the lessees (see discussion below);~~

Additional Discussion:

Do we want to require that a tower cannot be built unless there is an antenna that will be placed on the tower immediately when it is constructed?

Pete Frisina explained there are companies who only build towers and they will lease space to a carrier.

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Attorney Jennifer Blackburn said she did not know of any situation where a tower did not have at least one (1) carrier prior to construction of the tower because a tower cost millions of dollars to construct. She added she had seen this requirement in other ordinances.

The question is how we enforce this: require a Letter of Intent or Lease Agreement from a carrier and how do we determine if it is binding? If this is the case, then an application must include a

Letter of Intent or Lease Agreement.

Pete Frisina asked Attorney Jennifer Blackburn which of these two (2) would be better for the County to require.

Attorney Jennifer Blackburn replied the County should probably require a Lease Agreement because it would cost a lot of money to break the Lease Agreement.

Pete Frisina asked Attorney Jennifer Blackburn to please forward his copies of Lease Agreements. He added this requirement would be required under G. *Site Application Requirements*.

Pete Frisina suggested amending the following: ~~j. a statement of intent on whether excess space will be leased;~~ **the names of the lessees** to read: **f. Lease Agreement with minimum of one (1) carrier.**

~~k. a copy of the Determination of No Hazard to Air Navigation from the FAA; and~~

~~l. a copy of the Carrier's FCC license (as applicable for an antenna).~~

Site Plan Requirements. All tower applicants for new towers shall be required to submit a scaled site plan which complies with all applicable requirements of the Development Regulations (see County Code.) Additional information indicated on the site plan shall include:

- a. a signed/sealed survey by a land surveyor registered in the State of Georgia of the parent tract, leased area, and ingress/egress easement, indicating the metes and bounds for each;
- b. total tower height including antennas;
- c. type and design of any tower facility, including location of equipment buildings or cabinets;
- d. distance from nearest off-site residences;
- e. fencing and gate details;
- f. all applicable setbacks for the tower, tower facility, and anchors for guyed tower, as applicable;
- g. distance between towers;

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h. zoning and acreage of parent tract;

i. zoning of adjacent property; and

j. other information necessary to assess compliance with this ordinance.

Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Site plan submittal shall include completion of a tower application, signed and notarized by both the property owner and the tower company representative/agent.

The following scenarios shall not require submittal of a site plan:

- a. Installing an antenna on an existing structure, so long as said installation adds no more than 20 feet to the height of said existing structure (including buildings, light/utility poles, water towers, or other free standing non-residential structures excluding signs and towers.)
- b. Co-locating an antenna on any existing tower, so long as, said installation does not exceed the maximum height of administrative tower approval for that location and complies with all applicable conditions of approval associated with the tower site.
- c. Enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site which does not require an enlargement of the existing tower facility.

Prior to the placement or co-location of any antenna, enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site, the applicant shall provide written notice to the Zoning Administrator. The notice shall include a depiction of the location, size, and configuration of such antenna on the existing tower and equipment location within the existing tower facility in reference to an existing site plan and a certification from a licensed professional engineer verifying that the antenna will comply with wind load requirements and weight limits for the structure or tower as designed and installed. A Zoning Compliance Form shall be issued by the Zoning Administrator upon satisfaction of the above requirements, and any applicable building permits/inspections shall be required.

- H. *Site Application Timeframes.* The County shall act on applications for co-locations within 90 days, and all other applications within 150 days. **An application shall not be accepted for review unless, at minimum, it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded Warranty Deed), and site plan prepared by an Engineer, Architect, or Landscape Architect registered by the State of Georgia.** The Zoning Administrator has 30 days to determine if an application is complete. If the Zoning Administrator requests additional information within the 30 day review period, the time it takes the applicant to respond will not count towards the 90 or 150 day time limits.

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Upon notice that an application is incomplete, the applicant has 30 days to submit all information necessary to complete the application. Failure to complete the application in this timeframe shall result in an automatic withdrawal of the application, and **the** proposed tower will no longer be deemed a planned tower, **and a site application shall not be submitted for the same property for 60 days.**

- I. *Tower Approval Expiration.* Approval of a site application by the applicable departments for a tower shall expire 12 months from the date of approval and will no longer be deemed a planned tower, unless a Certificate of Occupancy has been issued for the tower or the

building permit remains active.

Pete Frisina advised he would present the proposed amendments at the BOC Workshop in December.

* * * * *

2. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding Illegal Nonconforming Lots.

Tom Williams presented the proposed amendments as follows:

Issue:

Policy development is needed on illegal non-conforming lots that do not meet minimum dimensional zoning requirements. Building permits cannot be issued to illegal non-conforming lots, including the rebuilding of a structure destroyed by an Act of God or fire. The best solution is to rezone the lot to a zoning district it can comply with; however, this creates a problem when the rezoning request does not comply with the Land Use Plan. The question is: What solution can be provided for those lots that have been acquired by uninformed parties who now own an illegal non-conforming lot?

Existing Conditions:

Fayette County has lots that were made legally non-conforming by the adoption of the Zoning Ordinance on November 13, 1980, and/or by subsequent amendments made to the Zoning Ordinance. There are other lots that have been made non-conforming since 1980, or after amendments made to the Zoning Ordinance that are illegal non-conforming lots. As previously mentioned, rezoning the lot to a zoning it can comply with is the best solution, except when the rezoning request does not comply with the Land Use Plan.

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Three (3) alternatives have been discussed:

Alt. 1. Create criteria in the Land Use Plan for the rezoning of an illegal non-conforming lot which does not comply with Land Use Plan. The goal is not to weaken the integrity of the Land Use Plan so it can be used against the County in other rezoning requests.

Alt. 2. Create sub-zoning categories in the Zoning Ordinance for the rezoning of an illegal non-

conforming lot. (Example: If the lot is zoned A-R then you would request to rezone from A-R to A-R Exception.)

Alt. 3. Create a procedure and criteria for the Zoning Board of Appeals to legitimize an illegal non-conforming lot through the variance process.

Proposed Evaluation Criteria:

1. The application of these regulations to the particular piece of property would create a practical difficulty or unnecessary hardship.
2. Relief, if granted, would not cause substantial detriment to the public or impair the purposes and intent of these regulations.
3. What is the history of the lot(s)?
4. How many changes of ownership have taken place?
5. What is the date of nonconformity per the recorded Warranty Deed?
6. Is the property vacant or developed?
7. Have building permits been issued?
8. Is there sufficient land available adjacent to the non-conforming lot that could be used for bringing the subject property into conformance if it were to be acquired?
9. Has the owner exhausted all options, including legal action, against the seller?
10. Has the owner taken all initiatives to remediate the non-conformance?

These criteria could be catered to any of the alternatives.

The big question is: Which alternative would be the most effective in maintaining the strength of the Land Use Plan?

Tom Williams advised the County Attorney had reviewed the three (3) alternatives and advised Staff that Alternative 2 was the best choice for the County; however, he did not want the word “exception” utilized. He added a revision would also be necessary to the Land Use Plan.

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Dennis Dutton suggested amending **Sec. 7-2. Nonconformances**, A. *Nonconforming Lots* as follows:

Consideration for the Rezoning of Illegal Nonconforming Lots. Any illegal nonconforming lot may be considered for rezoning to a sub-category of the same zoning district to bring into a legal non-conforming status may request a rezoning of said property

provided that it meets the following criteria:

1. That a bona-fide purchase in good faith of said illegal nonconforming lot shall have consideration for the proposed rezoning within its particular zoning district designation.

Dennis Dutton explained, for example, if a property was zoned A-R and the rezoning application was approved, the property would then be zoned A-R-Subcategory. He suggested better defining “a bona-fide purchase in good faith.”

Chairman Thoms suggested using “Compatible” after the applicable zoning district.

Tom Williams suggested using “NC” after the applicable zoning district.

Doug Powell remarked he had reviewed other ordinances and most do not provide relief even if the house is destroyed by an Act of God or fire. He commented each petition should be reviewed and considered on a case by case basis with established criteria. He stated if the rezoning is approved, the zoning district should be given a special classification.

Pete Frisina advised he would present the proposed amendments at the BOC Workshop in December.

* * * * *

3. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, ARTICLE VI. DISTRICT USE REQUIREMENTS, Sec. 6-22. M-1 Light Industrial District regarding storage/rental/sales/repair of boats and ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES, TRANSPORTATION CORRIDOR OVERLAY ZONE, AND COMMERCIAL DEVELOPMENT STANDARDS, Sec. 7-5. Transportation Corridor Overlay Zone, B. SR 85 North Overlay Zone.

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Dennis Dutton explained he had a request to have the storage of boats behind an existing building which faces SR 85 North; however, the SR 85 North Overlay Zone does not allow garage doors and bays to face SR 85 North. He presented the proposed amendments as follows:

ARTICLE VI. DISTRICT USE REQUIREMENTS

Sec. 6-22. M-1 Light Industrial District.

- B. *Permitted Uses.* The following Permitted Uses shall be allowed in the M-1 Zoning District:
6. Automobile, truck, farm equipment, and heavy equipment sales and repairs, paint and/or body shop, parts store including rebuilding of parts, parking lot or garage, upholstery shop.
 7. Blueprinting and/or graphics service;
 - 2 **Boat and marine equipment sales/rental/repairs/storage;**
 8. Bookbinding;

The PC concurred with allowing a boat and marine equipment sales/rental/repairs/storage as a Permitted Use in the M-1 zoning district.

ARTICLE VII. CONDITIONAL USES, NONCONFORMANCES, TRANSPORTATION CORRIDOR OVERLAY ZONE, AND COMMERCIAL DEVELOPMENT STANDARDS

Sec. 7-5. Transportation Corridor Overlay Zone

- B. *SR 85 North Overlay Zone. (B. adopted in its entirety)* All property and/or development within 1,000 feet of the right-of-way of SR 85 North with nonresidential use or zoning shall be subject to the requirements of the SR 85 North Overlay Zone. The intent of the overlay is to set standards specific to SR 85 North from the city limits of the City of Fayetteville north to the Fayette-Clayton county line.
8. *Special Locational and Spatial Requirements.*
- c. For all new construction, garage doors and bays associated with any use within the district shall be located on the side or rear of the principal building, and not facing SR 85. **An accessory building utilized in conjunction with the principal building shall be located to rear of the principal building and shall be enclosed on a minimum of three (3) sides with open bays.**

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Doug Powell asked if the structure in the rear would extend above the existing structure.

Dennis Dutton replied that requirement could be added to the proposed amendment.

Al Gilbert cautioned that people will want to also park their trailers on the property.

Jim Graw asked what would prevent the boats from being stacked outside of a building.

Dennis Dutton replied the trailers and boats parked outside would be considered as outside storage which is required to be screened per Article V. of the Zoning Ordinance.

Bill Beckwith stated he did not think the intent of Sec. 7-5.,B.,8.,c. was to restrict subsequent buildings located behind the principal building, which directly faces SR 85 North, to not be allowed to have garage doors and bays which would face SR 85 North because they were not directly facing SR 85 North.

Doug Powell remarked he did not want the boats to be visible from SR 85 North.

Pete Frisina advised any building in a nonresidential zoning district is a principal building.

Robyn Wilson suggested changing the proposed amendment as follows: "Subsequent buildings utilized in conjunction with the principal building, which abuts SR 85 North, shall be located to rear of the principal building and shall be enclosed on a minimum of three (3) sides and may have garage and bays which face SR 85 North." She also suggested adding "Said subsequent building shall not exceed the width or height of the principal building which abuts SR 85 North."

Staff advised they would continue to review and revise the proposed amendment regarding subsequent buildings.

* * * * *

Chairman Thoms asked if there was any further business.

Al Gilbert asked about the proposed amendments for auxiliary structures in the A-R Zoning District.

Pete Frisina replied it was completed and would be included in the next overall amendments to the Zoning Ordinance which should be adopted next year.

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Robyn Wilson advised there were no items for the December 1, 2011, Public Hearing. She also advised the BOC were holding a Public Hearing on December 15, 2011, so she had reserved the BOC Conference Room for December 14, 2011. She added she would send the PC an email if the meetings were going to be cancelled.

Hearing no further business, Bill Beckwith made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 5-0. Members voting in favor of adjournment were: Chairman Thoms, Al Gilbert, Bill Beckwith, Jim Graw, and Doug Powell. The Public Meeting/Workshop adjourned at 9:15P.M.

**PLANNING COMMISSION
OF
FAYETTE COUNTY**

ATTEST:

**TIM THOMS
CHAIRMAN**

**ROBYN S. WILSON
P.C. SECRETARY**